

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMES J. CADIZ-TAYLOR, SR.,

Plaintiff,

v.

Case No. 14-CV-1007

**ROBERT PIGEON, REBECCA CRUZ,
and CARLOTTA ADAMS,**

Defendants.

DECISION AND ORDER

Plaintiff, James J. Cadiz-Taylor, who is proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 along with a petition to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. By order dated August 22, 2014, plaintiff was ordered to forward to the Clerk of Court within twenty-one days the sum of \$10.17 as an initial partial filing fee in this action. Plaintiff was advised that, upon payment of this fee, the court would determine whether the action can proceed in forma pauperis. To date plaintiff has not paid this partial filing fee. From this failure to pay the initial filing fee I infer that plaintiff no longer wants to prosecute this action.

However, before dismissing this case for failure to pay the initial fee, I must determine whether the prisoner is at fault for the non-payment. See Thomas v. Butts, 745 F.3d 309, 312-13 (7th Cir. 2014). A court may not dismiss the suit of a prisoner who has a lack of funds in the account. Id. at 312; see also § 1915(b)(4) (“In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.”). “But if the court finds

that the prisoner is unable to pay the partial filing fee at the time of collection because he intentionally depleted his account to avoid payment, the court in its sound discretion may dismiss the action.” Thomas, 745 F.3d at 312 (citations and internal quotation omitted).

NOW, THEREFORE, IT IS ORDERED that the plaintiff shall show cause why this case should not be dismissed for nonpayment of the initial partial filing fee.

IT IS FURTHER ORDERED that on or before **October 24, 2014**, plaintiff shall provide the court with information regarding why the initial partial filing fee has not been paid.

IT IS ALSO ORDERED that a copy of this order be sent to the warden of the institution where the inmate is confined.

Dated at Milwaukee, Wisconsin, this 2nd day of October, 2014.

s/ Lynn Adelman

LYNN ADELMAN
District Judge